

PAY FOR FIREFIGHTERS

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) Directive revises existing policy and procedures for firefighters with regular average workweeks of at least 53 hours. This Directive applies to all VHA organizational elements in the Department of Veterans Affairs (VA) and is effective retroactive to October 11, 1998.

2. SUMMARY OF MAJOR CHANGES: The key changes are summarized as follows:

a. This issuance incorporates the provisions of Section 3032 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106-31, dated May 21, 1999. This section covers any firefighter who, as of October 11, 1998, was on 24-hour shifts with an average workweek of more than 60 hours and who, before December 31, 1999, is involuntarily moved without a break in service to a covered firefighter position that averages no more than 60 hours per week and does not include a basic 40-hour workweek. Individuals who qualify for this coverage shall, upon involuntary movement to a position described above, receive a special 2-step increase in their rates of basic pay. This special increase will be administered in the same manner as for firefighters who received the 2-step increase in October 1998.

b. A statement is added concerning the computation of Continuation of Pay benefits for individuals who suffer on-the-job injuries.

c. Minor rewordings are made to enhance understanding of the material.

3. RELATED ISSUE: None.

4. RESPONSIBLE OFFICE: The Office Human Resources Management (051) is responsible for the contents of this directive.

5. RESCISSIONS: VHA Directive 5550.13, dated January 9, 1999, is rescinded.

6. RECERTIFICATION: The document is scheduled for recertification on/before the last working day of February 2005.

S/ Frances Murphy, M.D. for
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Deputy Under Secretary for Health

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PAY FOR FIREFIGHTERS

1. PURPOSE AND SCOPE. This Veterans Health Administration (VHA) Directive contains policies and requirements for the payment of firefighters who have regular tours of duty averaging at least 53 hours per week. Certain leave and scheduling policies are also established.

2. POLICY

a. **General.** All VHA firefighters with regular tours of duty averaging at least 53 hours per week will be paid in accordance with the provisions of this Directive and Title 5 Code of Federal Regulations (CFR) Part 550, Subpart M.

b. **Pay for Firefighters**

(1) The divisor for computing pay for firefighters whose schedules generally consist of 24-hour tours will be 2,756. See subparagraph 2c, for the divisor for firefighters whose uncommon tours include a basic 40-hour workweek.

(2) Standby duty premium pay is eliminated for covered firefighters. They will receive hourly rates of pay, either straight-time or overtime, for all hours worked. All other forms of premium pay, including night, Sunday, holiday, and hazardous duty, are prohibited.

(3) Covered firefighters who attend agency-sanctioned training at which attendance would otherwise reduce the hours worked will continue to receive basic and overtime pay for their regular tour of duty. This provision does not apply to individuals who voluntarily participate in training during non-duty hours, leave hours, or periods of excused absence.

(4) All periods of paid absence will be counted as hours of work in determining whether the 53-hour overtime standard has been met.

c. **Tours Including Basic 40-Hour Workweek.** Firefighters whose regular tours of duty include a basic 40-hour workweek (as opposed to firefighters whose regular tours generally consist of 24-hour shifts) will have pay for their basic workweeks computed using the 2,087 divisor. All hours in excess of their basic 40-hour workweek will be computed using the 2,756 divisor. Firefighters who are working compressed work schedules for the basic 40-hour portion of their tours will have pay for their basic workweeks computed on a biweekly basis using the 2,087 divisor for all hours within their basic 80-hour workweek. All hours worked outside their basic 80-hour workweek will be computed using the 2,756 divisor with overtime being determined on a weekly basis as follows:

(1) **Non-Overtime Hours.** Hours in excess of the basic 80-hour workweek, up to 53 hours in a week, will be paid at the straight-time rate using the 2,756 divisor.

(2) **Overtime Hours.** Hours in excess of 53 hours in a week will be paid at the applicable overtime rate using the 2,756 divisor. The applicable overtime rate will be determined in accordance with subparagraph 2d.

d. **Overtime Premium Pay**

(1) Firefighters covered by the terms of this Directive will receive overtime pay only after 53 hours of work in a week. All hours in a duty status will be considered as hours of work for purposes of computing overtime pay.

(2) Firefighters whose hourly rate (using the 2,756 divisor) is less than the minimum hourly rate for General Schedule (GS)-10 (using the 2,087 divisor) *and* all firefighters who are covered by (i.e., non-exempt from) the Fair Labor Standards Act (FLSA), regardless of pay rate, will receive overtime pay at the rate of one-and-one-half their firefighter rate of basic pay (2,756 divisor). This pay will be considered to be appropriate compensation under section 7(k) of the FLSA.

(3) FLSA-exempt firefighters whose hourly rate (using the 2,756 divisor) is greater than the minimum hourly rate for GS-10 (using the 2,087 divisor) will be paid for all overtime hours at a rate which is the greater of:

(a) One-and-one-half times the minimum hourly rate of basic pay for GS-10 (using the 2,087 divisor); or

(b) The applicable firefighter hourly rate of basic pay (using the 2,756 divisor).

e. **Leave Without Pay (LWOP).** Firefighters who take LWOP during an administrative workweek will have any irregular hours worked (i.e., hours outside the regular tour of duty for that workweek) substituted for those LWOP hours. Firefighters whose regular tour of duty includes a basic 40-hour workweek who take LWOP will have any irregular hours worked in the administrative workweek substituted first for the basic 40-hour workweek LWOP hours, and then, if applicable, for any other LWOP hours. The substitution is only for irregular hours worked in the workweek, because VA firefighters' pay is computed on a weekly basis.

f. **Lump Sum Annual Leave Payments.** Firefighters who earn and use leave under uncommon tours of duty will receive credit for regular overtime pay in their lump sum annual leave payments. **NOTE:** See *Appendix A* for additional guidance.

g. **Uncommon Tours of Duty.** All VHA firefighters under the scope of this Directive shall be placed on uncommon tours of duty for purposes of leave accrual and usage. This will include all firefighters with regular tours of duty of at least 53 hours per week, such as 56-, 60-, and 72-hours. **NOTE:** See *Appendix A* for regulations on leave accrual and charges for absences.

h. **Scheduling**

(1) All fire chiefs will be placed on tours of duty that include a basic 40-hour workweek. When desired, fire chiefs may work a 56-hour regular tour, providing that this schedule includes the basic 40-hour workweek.

(2) Firefighters whose normal tours of duty are 56, 60 or 72 hours and generally consist of 24-hour shifts will continue to have a requirement for a minimum of 25 and a maximum of 39 hours of actual work each week. This section shall not apply in emergency situations.

i. **Continuation of Pay.** Employees covered by this Directive shall receive pay for all regularly scheduled hours in their tours during periods of continuation of pay following an on-the-job injury.

3. ACTION

a. **Responsibilities**

(1) **Office of Human Resources Management.** The Office of Human Resources Management is responsible for providing advice and guidance to management officials regarding pay matters contained in this Directive.

(2) **Office of Financial Management (OFM).** The Office of Financial Management is responsible for providing technical advice and guidance to management officials regarding the procedures for implementing and paying firefighters under the terms of this Directive.

(3) **Facility Management Officials.** VHA management officials at VHA facilities employing firefighters with regular weekly tours of duty of at least 53 hours are responsible for ensuring that fire personnel are scheduled and paid in accordance with the provisions of this Directive.

b. **Implementation**

(1) **Effective Date.** The pay provisions contained in 5 CFR Part 550, Subpart M, are effective in department of veterans Affairs (VA) on October 11, 1998. Following publication of this Directive and as soon as is practicable, covered employees will receive backpay for any difference between their entitlement under the new system and the actual pay received for salary paid for the period since Pay Period 21 of 1998.

(2) **Interim Processing.** Until such time as the Personnel Accounting and Integrated Data (PAID) System can be reprogrammed to accommodate the new pay rules for covered firefighters, individuals will continue to be paid through the automated PAID system using the old pay rules. This will ensure that all firefighters receive at least as much pay as they were receiving under the old rules.

(a) Facilities employing firefighters will compute employees' pay entitlement under the new rules and, in those instances where the new rules provide a different payment amount, will pay the additional amount in the next paycheck as a pay adjustment or will initiate collection/waiver request procedures, as appropriate.

(b) Additional instructions will be provided to facilities in an OFM Bulletin outlining the procedures for paying employees during the interim period between implementation and reprogramming of PAID.

(3) **Cancellation of Standby Duty Premium Pay.** Effective October 11, 1998, firefighters covered by this Directive will no longer be eligible for standby duty premium pay. A Standard Form (SF)-52, Request for Personnel Action, documenting the cancellation of standby duty premium pay effective October 11, 1998, will be prepared for affected employees as soon as possible upon publication of this Directive. This action may be listed in conjunction with the SF-52 for the special 2-step adjustment described in following subparagraph 3b(4), if applicable. Copies of the SF-52 will be provided to the affected employees and to payroll offices, but will not be input into PAID. Input of the SF-52 data and processing of the SF-50B, Notification of Personnel Action, will take place concurrent with the implementation of PAID reprogramming because employees should continue to receive standby duty pay under PAID payroll processing.

(4) **Special Pay Adjustment of Two Steps.** Effective October 11, 1998, all firefighters with regular tours of duty averaging 60 hours or less per week (and that do not include a basic 40-hour workweek) will receive an increase in basic pay equal to two within-grade increases (WGIs) for the grade applicable to the firefighter. Such 2-step pay adjustments are not equivalent increases in pay for purposes of waiting periods for within-grade increases.

(a) If 2-step adjustments under this subparagraph result in individuals moving into a longer waiting period for their next WGI, the individuals will be credited with 52 weeks of service only for the purpose of that waiting period. For example, if an individual with an average 56- or 60-hour tour is in step two of the grade prior to the implementation date of this change, the individual will receive a special 2-step adjustment to the fourth step of the grade, which puts the individual into a 2-year waiting period for a WGI. Under the provisions of 5 CFR 550.1308(a)(3), such individual will be credited with an additional 52 weeks of service for purposes of completing the waiting period for advancement to the fifth step of the grade.

(b) Individuals who, as a result of the special 2-step adjustment, become entitled to a rate of basic pay above the maximum rate for the grade will be placed on pay retention under the provisions of Title 5 United States Code 5363. They will be coded as pay basis three (retained pay) and will receive one-half of future increases to the maximum rate of basic pay for their grade.

(c) Individuals who are eligible for another personnel action, e.g., promotion or within-grade increase, on October 11, 1998, will have their personnel action and the special 2-step adjustment processed in the order that results in the greater benefit.

(d) An SF-52, documenting the special 2-step pay adjustment effective October 11, 1998, will be prepared for affected employees as soon as possible upon publication of this Directive. Copies of the SF-52 showing the adjustment effective October 11, 1998, will be provided to the affected employees and to payroll offices, but will not be input into PAID. Input of the SF-52 data and processing will take place concurrent with the implementation of PAID reprogramming because employees will continue to receive standby duty pay under PAID. The delay in processing the 2-step adjustment is necessary to avoid overpaying employees. To implement the special 2-step adjustment during the interim period while employees' paychecks are processed under the old pay rules would result in overpayments.

(e) Individuals covered by the provisions of this subparagraph (i.e., those in step 8 or above as of October 11, 1998) will be coded as ineligible for WGIs, based on placement at step 10 or a retained rate due to the special 2-step adjustment.

(f) For the period of October 12, 1998, to December 30, 1999, the provisions in preceding subparagraphs 3b(4)(a) through 3b(4)(e) shall apply to any individual who:

1. On October 11, 1998, was a Federal firefighter with a regular tour of duty that averages more than 60 hours per week that does not include a basic 40-hour workweek; and

2. Is involuntarily moved on or after October 12, 1998, but on or before December 30, 1999, without a break in service from a tour described in subparagraph 3b(4)(f)1. to a firefighter position with a regular tour of duty that averages at least 53 hours but not more than 60 hours per week, and does not include a basic 40-hour workweek.

3. This provision shall ensure that firefighters who did not receive a 2-step increase effective October 11, 1998 (because on that date they had regular tours of duty that averaged more than 60 hours per week), will receive the 2-step increase if they should be moved involuntarily into a position which, but for the effective date of the involuntary movement, would have entitled them to the 2-step increase.

(5) **Savings Provision.** Firefighters with regular tours of duty of generally 24-hour shifts that average 56 hours per week and whose standby premium pay is more than 10 percent may receive less annualized regular pay under the new system, even after the special 2-step adjustment. The law requires that agencies establish a protected annual rate of basic pay (exclusive of locality comparability pay) for these individuals. This protected rate is fixed and not subject to any further adjustment, except for computing locality comparability payments (LCPs). For purposes of LCPs, a protected rate is a scheduled rate of basic pay. **NOTE:** *See Appendix B for procedures for determining whether a protected rate applies.* Entitlement to a protected rate of basic pay will terminate when the employee's actual rate of basic pay equals or exceeds the protected rate, or when the individual moves to a position not covered by this Directive. A SF-52, documenting the saved rate as a pay adjustment effective October 11, 1998, will be prepared for affected employees as soon as possible upon publication of this Directive. Copies of the SF-52 showing the adjustment effective October 11, 1998, will be provided to the affected employees and to payroll offices, but will not be input into PAID. Input of the SF-52 data and processing will take place concurrent with the implementation of PAID reprogramming.

(6) **Pay Computations.** Refer to Appendix C for guidance on computing pay under the new rules.

5. REFERENCES

a. Section 628 of the Treasury and General Government Appropriations Act, 1999, incorporated in section 101(h) of Public Law 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, October 21, 1998.

b. Section 3032 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106-31, May 21, 1999.

- c. Subpart M of Part 550, 5 CFR.
- d. PAID Bulletin 98-17, October 22, 1998.

6. DEFINITIONS

- a. **Firefighter.** For purposes of this Directive, firefighter refers to individuals in positions classified in the GS-081 series (Fire Protection and Prevention) and who have regular tours of duty averaging at least 53 hours per week.
- b. **Regular Tour of Duty.** This term means a firefighter's official work schedule established by management on a regular and recurring basis as in effect throughout the year (or on a temporary basis in cases where a temporary change in schedules results in a reduction in regular work hours or a change in the pay computations under paragraph 2), provided that the individual works at least 53 hours per week, on average. It includes only those overtime hours that are deemed to be part of the firefighter's fixed recurring work schedule. Firefighters whose regular tour of duty consists of a 56-, 60- or 72-hour average week will be placed on Uncommon Tours of Duty.
- c. **Basic 40-Hour Workweek.** This term means a block of time in a firefighter's regular tour of duty that consists of 40 hours of actual work during an administrative workweek (or 80 hours of actual work over a biweekly pay period for individual on compressed work schedules), excluding sleep and eating time, provided the tour does not consist primarily of 24-hour shifts.
- d. **Overtime Hours.** This term means hours of work in excess of 53 hours in a week.
- e. **Annualized Regular Rate of Pay.** This term means the gross salary, computed as of October 11, 1998, that a firefighter would earn over a 52-week period for working the regular tour of duty, computed with rates in effect on.

ABSENCE AND LEAVE FOR FIREFIGHTERS WITH UNCOMMON TOURS OF DUTY

1. UNCOMMON TOURS OF DUTY. Firefighters covered by this Directive will be placed on uncommon tours of duty for purposes of earning and charging leave.

2. ANNUAL LEAVE ACCRUAL. Firefighters by this Directive will accrue annual leave based on the number of hours in the firefighter's regular tour of duty, as shown below. These accrual rates are set according to the relationship the uncommon tours bear to standard accrual rates for full-time employees. Depending on the number of years of service for leave accrual purposes, leave accrual rates may vary for the last full pay period (PP) of the leave year (LY):

ANNUAL LEAVE ACCRUALS

Weekly Regular Tour of Duty						
Years of Service	56 Hours (Average)		60 Hours (Average)		72 Hours (Average)	
	Leave accrual per pay period, <i>except last PP</i>	Leave accrual, last full PP of LY	Leave accrual per pay period, <i>except last PP</i>	Leave accrual, last full PP of LY	Leave accrual per pay period, <i>except last PP</i>	Leave accrual, last full PP of LY
Less than 3	5 hours	21 hours	6 hours	6 hours	7 hours	12 hours
3 – 15	8 hours	24 hours	9 hours	15 hours	11 hours	13 hours
15 or more	11 hours	16 hours	12 hours	12 hours	14 hours	24 hours

3. SICK LEAVE ACCRUAL. Firefighters covered by this Directive will accrue sick leave based on the number of hours in the firefighter's regular tour of duty. These accrual rates are set according to the relationship the uncommon tours bear to standard accrual rates for full-time employees, as shown in the following:

SICK LEAVE ACCRUALS

Weekly Regular Tour of Duty					
56 Hours (Average)		60 Hours (Average)		72 Hours (Average)	
Leave accrual per pay period, <i>except last PP</i>	Leave accrual, last full PP of LY	Leave accrual per pay period, <i>except last PP</i>	Leave accrual, last full PP of LY	Leave accrual per pay period, <i>except last PP</i>	Leave accrual, last full PP of LY
5 hours	21 hours	6 hours	6 hours	7 hours	12 hours

4. CHARGES TO LEAVE OR OTHER ABSENCES. Annual leave, sick leave, and leave without pay will be charged on the basis of $\frac{1}{4}$ hour for each $\frac{1}{4}$ hour of absence in an employee's scheduled tour. All scheduled hours of duty are considered to fall on regular workdays; employees are required to work all scheduled hours of duty or be charged for the absence. Employees will be charged for absences during overtime hours within their regularly scheduled tours of duty. Employees are expected to work on all Federal holidays falling within their regular tours of duty, or they will be charged for the absence.

5. ACCUMULATED LEAVE

a. **Conversions.** Individuals with accumulated leave balances who convert to a different regular work schedule (e.g., from a 40-hour schedule to a 56-hour schedule, from a 72-hour schedule to a 56-hour schedule, etc.) shall have their leave balances converted proportionately to their new tour of duty, as provided in Title 5 Code of Federal regulations 630.210b.

b. **Lump Sum Annual Leave.** Firefighters on uncommon tours of duty who separate from Federal employment with accumulated annual leave will have their leave balances paid out according to their regular tours of duty.

(1) For firefighters who generally work 24-hour shifts, their leave balances will be paid out at the 2,756-divisor rate, including overtime for regularly scheduled hours in excess of 53 hours in an administrative week. For example, a firefighter with 100 hours of accumulated annual leave will have the hours paid out according to the scheduled tour. If the first scheduled tour following the separation would be a 72-hour week, the firefighter would receive 53 hours of leave at the 2,756-divisor straight-time rate, and 19 hours of leave at the 2,756-divisor overtime rate. Any remaining accumulated annual leave would be paid out in subsequent weeks in the same manner.

(2) For firefighters with a basic 40-hour workweek, their accumulated annual leave will be paid out at the 2,087-hour divisor for hours that correspond to the basic 40-hour workweek, with the remainder of the regularly scheduled tour of duty paid at the 2,756-divisor rate. Hours over 40 will be paid at the 2,756-divisor straight time rate up to 53, with all remaining hours paid at the applicable overtime rate.

PROTECTED PAY RATES FOR FIREFIGHTERS GENERALLY WORKING 24-HOUR SHIFTS

1. DETERMINING ENTITLEMENT TO A PROTECTED RATE AS OF OCTOBER 11, 1998

a. In order to determine, as of October 11, 1998, a firefighter's entitlement to a protected rate, it is necessary to compute the annualized regular rate of pay. The steps in Tables 1 and 2 should be used in computing annualized pay under the old and new rules.

Table 1. OLD RULES – 24-Hour Shifts

Annual Pay Rate (Including Locality Comparability Payments (LCP) _____ Standby Percentage _____)	Scheduled Tour Cycle _____ (e.g., 3-week rotation – 48-64-56, for a 56-hour average tour)
Exempt: _____ Non-Exempt: _____ (If exempt, receive no Fair Labor Standards Act (FLSA) overtime)	NOTE: Round to 2 decimal places at each step of the computations, except where noted.
1. Take the Annual Pay Rate and divide by 2,087 and round to determine the General Schedule (GS) hourly rate.	
2. For each week in the Tour Cycle: A. Take hourly rate computed in Step 1 and multiply by 40. B. Take hourly rate computed in Step 1 and multiply by Standby percentage. C. Multiply the result from Step B by 40 and add to the result from Step A. (Stop here if the employee is FLSA-exempt; this is an exempt employee's average weekly pay.) D. <i>For FLSA-covered employees only:</i> Compute FLSA overtime for scheduled hours over 53. (1) Divide result from Step C by number of hours in scheduled tour. This is the FLSA hourly rate. (2) Multiply result from (1) by $\frac{1}{2}$ times the number of scheduled hours over 53. <u>Example:</u> For 64-hour week, multiply FLSA hourly rate x $\frac{1}{2}$ x 11 [64 – 53] E. Add the results of Steps C and D. This is the average FLSA-covered weekly pay.	
3. Repeat Step 2 for each week in scheduled tour cycle.	
4. Add average weekly pay for all weeks in tour cycle.	
5. Multiply sum from Step 4 by (52 divided by the number of weeks in tour cycle). NOTE: <i>This is the Annualized Regular Pay under the old rules.</i>	

Table 2. NEW RULES – 24-Hour Shifts

Annual Rate (Excluding LCP) _____ (Standby Duty Pay is Abolished)	Scheduled Tour Cycle _____ (e.g., 3-week rotation -- 48-64-56, for a 56-hour average tour)
Exempt: _____ Non-Exempt: _____ (If exempt, overtime rate may be capped)	NOTE: Round to 2 decimal places at each step of the computations, except where noted.
<i>For 72-hour firefighters, start at Step 3b; for 56- and 60-hour firefighters, start at Step 1.</i>	
1. Take the Current Annual Rate of basic pay and add the special 2-step adjustment.	
2. Add LCP to the result from Step 1.	
3a. Divide the result from Step 2 by 2,756. This is the new firefighter hourly rate for 56- and 60-hour firefighters. -- OR -- 3b. Add LCP to the Current Annual Rate of basic pay and divide by 2,756. This is the new hourly rate for 72-hour firefighters.	
4. For each week in the Tour Cycle: A. Take hourly rate from Step 3a or 3b, as applicable, and multiply by number of hours in scheduled tour, not to exceed 53. B. Multiply hourly rate from Step 3a or 3b by 1.5 times number of scheduled hours over 53. NOTE: Cap overtime rate for exempt firefighters whose hourly rate (2,756 divisor) exceeds the hourly rate for GS-10, step 1 (2,087 divisor). EX: For 64-hour week, multiply hourly rate x 1.5 x 11 [64 – 53] C. Add the results of Steps 4A and 4B. This is the weekly pay under the new rules.	
5. Repeat Step 4 for each week in scheduled tour cycle.	
6. Add average weekly pay for all weeks in tour cycle.	
7. Multiply sum from Step 6 by (52 divided by the number of weeks in tour cycle). NOTE: This is the Annualized Regular Pay under the new rules.	

b. If, as of October 11, 1998, the Annualized Regular Pay (ARP) computed in Table 2 – New Rules, is lower than the ARP computed in Table 1 – Old Rules, the firefighter is entitled to a protected rate that will prevent a reduction in the individual's ARP. If the ARP under the new rules is higher than the ARP under the old rules, a protected rate is not required.

2. DETERMINING A PROTECTED RATE AS OF OCTOBER 11, 1998

a. The new rules will occasionally result in a reduction in the ARP of certain firefighters with a 56-hour regular tour of duty and standby duty premium pay of more than 10 percent. In these instances, the individuals are entitled to a protected rate as of October 11, 1998.

b. To determine an individual's protected rate as of October 11, 1998, an hourly rate must be computed that, when used in the new pay computation rules, will yield as much pay as the individual's ARP under the old rules. Because there is no standby premium pay under the new rules, the protected rate will be computed using all hours of pay – including overtime – in an individual's tour.

Example: A 56-hour tour pays 57.5 hours = 53 hours + (3 hours overtime x 1.5)
A 60-hour tour pays 63.5 hours = 53 hours + (7 hours overtime x 1.5)

c. So, if the ARP for an individual's tour cycle, as computed under the old rules, is divided by the total number hours of pay in the tour cycle, it will result in an hourly rate that, over a year's time, will yield the old ARP when used to compute pay under the new rules.

d. However, the protected annual rate is frozen and may not be increased, but LCP rates may change, the protected rate shall be computed as a rate of basic pay only. So, compute the protected hourly rate by subtracting LCP. This will yield the protected hourly rate of basic pay, to which LCP will be added. This protected rate, plus LCP, will be used to compute pay under the new rules, thereby ensuring that firefighters will receive at least as much money under the new rules as they received under the old rules.

e. The protected annual rate of basic pay (as of October 11, 1998) remains in effect until the individual's actual annual rate of basic pay (whether the scheduled rate or the retained rate of basic pay) is equal to or greater than the protected annual rate of basic pay.

Table 3. Computing a Protected Rate as of October 11, 1998

NOTE: Round to 2 decimal places at each step of the computations, except where noted.

1. Compute the number of hours of pay for the tour cycle. For every week in the tour cycle, add the number of hours up to 53, plus scheduled hours in excess of 53 times 1.5. EX: A 48-64-56 tour cycle equals $48 + [53 + (11 \times 1.5)] + [53 + (3 \times 1.5)]$, for 175 hours of pay in the cycle.
2. Take total pay for tour cycle as computed in Step 4, Old Rules, in Table 1, and divide by number of hours of pay in the cycle, as computed in step 1, above. <i>Round up.</i>
3. Take result from Step 2 times 2,756. This is new annual rate including LCP. NOTE: <i>Round up to whole number.</i>
4. Take result from Step 3 and divide by amount of LCP (1 + percentage stated as decimal figure). <i>Round to whole number.</i> EX: If LCP percentage is 5.42%, divide result from Step 3 by 1.0542 (1 + .0542) NOTE: This is the protected annual rate of basic pay. It is frozen and not subject to any adjustments.
5. Compute protected hourly rate of basic pay by dividing result from Step 4 by 2,756.
6. Multiply result from Step 5 by amount of LCP (1 + LCP percentage stated as decimal figure). NOTE: <i>This is the protected LCP-adjusted hourly rate for computing pay under the new rules.</i>

f. The rate computed in Table 3 will result in pay over the tour cycle that, when computed under the new rules, equals or exceeds the old ARP. This can be verified by multiplying the hourly rate computed in Step 6 of Table 3 by the number of hours of pay in the tour cycle. This figure will equal or exceed the average pay for the tour cycle computed in Step 4 of Table 1.

EXAMPLE: A GS-6/9 FLSA-covered firefighter in a 5.42 percent LCP area works a 48-64-56 cycle for an average 56-hour tour. The firefighter receives 12.5 percent standby premium pay. Under the old rules, the firefighter receives \$34,573.59 ARP including LCP (\$1,994.63 for the cycle). With the special 2-step adjustment, the same firefighter would receive \$34,429.55 ARP including LCP. Because the firefighter would receive a lower ARP under the new rules (as of

October 11, 1998), the firefighter will receive a protected rate as shown in the following:

1. A 48-64-56 tour cycle equals 175 hours of pay. $\{48 + [53 + (11 \times 1.5)] + [53 + (3 \times 1.5)]\}$
2. Divide pay for 3-week cycle under old rules by hours of pay in cycle = \$11.3978 ($\$1,994.63 \div 175$). **NOTE:** Round up.
3. Compute annual rate. $\$11.40 \times 2,756 = \$31,418.40$. **NOTE:** Round up. This is the protected rate including LCP.
4. Deduct LCP from annual rate. $\$31,419 \div 1.0542 = \$29,804$. **NOTE:** Round up. This is the protected annual rate of basic pay. It is frozen.
5. Compute protected hourly rate. $\$29,804 \div 2,756 = \10.81 . **NOTE:** This is the protected hourly rate of basic pay. It is frozen.
6. Add LCP back in. $\$10.81 \times 1.0542 \text{ LCP} = \11.40 . **NOTE:** This is the LCP-adjusted protected hourly rate of pay for computing pay under the new rules.

Check to see if this figure will equal or exceed the pay for the tour cycle under the old rules:
 $\$11.40 \times 175 \text{ hours of pay} = \$1,995$, which is greater than \$1,994.63, pay under the old rules.

SAMPLE PAY COMPUTATIONS

NOTE: Round to two decimal places at each step of the computations.

1. Fair Labor Standards Act (FLSA)-covered firefighter working a 48-64-56 rotation, for an average 56-hour tour of duty.

Current Rate: \$26,593, General Schedule (GS)-6/5, with 5.42% locality comparability payments (LCP)

Employee receives special 2-step adjustment to \$28,158, GS-6/7, and receives pay as shown:
 $\$28,158 \div 2,756 = \10.216 , rounded to \$10.22 hourly rate. Overtime rate = \$15.33 (10.22×1.5)

Week 1 – 48 hours: Receives 48 hours of straight-time pay. $\$10.22 \times 48 = \490.56 . Additional hours paid at straight-time, until overtime standard of 53 met; hours over 53 in week paid at overtime rate.

Week 2 -- 64 hours: Receives 53 hours of straight-time and 11 hours of overtime pay. $(\$10.22 \times 53) + (\$15.33 \times 11) = \$710.29$. Additional hours paid at overtime rate.

Week 3 – 56 hours: Receives 53 hours of straight-time and 3 hours of overtime pay. $(\$10.22 \times 53) + (\$15.33 \times 3) = \$587.65$. Additional hours paid at overtime rate.

NOTE: See Appendix B to determine Average Regular Pay and whether a protected rate applies.

2. FLSA-covered firefighter working an 88-32-72-48 rotation, for an average 60-hour tour of duty.

Current Rate: \$27,370, GS-5/10, with 5.42% LCP

Employee receives special 2-step adjustment to \$28,774 (\$27,295 retained rate + 5.42% LCP), and receives pay as shown:
 $\$28,774 \div 2,756 = \10.44004 , rounded to \$10.44 hourly rate. Overtime rate = \$15.66 ($\10.44×1.5)

Week 1 – 88 hours: Receives 53 hours of straight-time and 25 hours of overtime. $(\$10.44 \times 53) + (\$15.66 \times 25) = \$944.82$. Additional hours paid at overtime rate.

Week 2 – 32 hours: Receives 32 hours of straight-time pay. $\$10.44 \times 32 = \334.08 . Additional hours paid at straight-time rate, until overtime standard of 53 is met; hours over 53 in week paid at overtime rate.

Week 3 – 72 hours: Receives 53 hours of straight-time and 19 hours of overtime. $(\$10.44 \times 53) + (\$15.66 \times 19) = \$850.86$. Additional hours paid at overtime rate.

Week 4 – 48 hours: Receives 48 hours of straight-time pay. $\$10.44 \times 48 = \501.12 . Additional hours paid at straight-time rate, until overtime standard of 53 is met; hours over 53 in week paid at overtime rate.

3. FLSA-exempt firefighter working a straight 56-hour tour of duty that includes a 40-hour basic workweek.

Current Rate: \$37,468, GS-10/3, with 5.42% LCP

Employee does not receive special 2-step adjustment.

$\$37,468 \div 2,087 = \17.953 , rounded to \$17.95 (first-40-hour hourly rate)

$\$37,468 \div 2,756 = \13.595 , rounded to \$13.60 (41-to-53-hour rate)

$\$13.60 \times 1.5 = \20.40 overtime rate for hours over 53 (less than the overtime rate for GS-10/1, using 2,087 divisor)

Each Week: 40 hours of straight-time at 2,087 divisor; 13 hours of straight-time at 2,756 divisor; and 3 hours of overtime at 2,756 divisor. $(\$17.95 \times 40) + (\$13.60 \times 13) + (\$20.40 \times 3) = \956.00 . Additional hours paid at overtime rate.

4. FLSA-covered firefighter working a straight 72-hour tour of duty.

Current Rate: \$33,024, GS-7/9, with 5.42% LCP

Employee does not receive special 2-step adjustment:

$\$33,024 \div 2,756 = \11.98258 , rounded to \$11.98 hourly rate. Overtime rate = \$17.97 ($\11.98×1.5)

Each Week: Receives 53 hours of straight-time and 19 hours of overtime. $(\$11.98 \times 53) + (\$17.97 \times 19) = \$976.37$. Additional hours paid at overtime rate.

5. FLSA-covered firefighters working a 55-48-65-48-65-55 rotation, for an average 60-hour tour of duty.

Current Rate: \$30,504, GS-6/10, with 5.42% LCP

Employee receives special 2-step adjustment to \$32,069 (\$30,420 retained rate + 5.42% LCP), and receives pay as shown:

$\$32,069 \div 2,756 = \11.63606 , rounded to \$11.64 hourly rate. Overtime rate = \$17.46 ($\11.64×1.5)

Week 1 – 55 hours: Receives 53 hours of straight-time and 2 hours of overtime. $(\$11.64 \times 53) + (\$17.46 \times 2) = \$651.84$. Additional hours paid at overtime rate.

Week 2 – 48 hours: Receives 48 hours of straight-time pay. $\$11.64 \times 48 = \558.72 . Additional hours paid at straight-time rate, until overtime standard of 53 is met; hours over 53 in week paid at overtime rate.

Week 3 – 65 hours: Receives 53 hours of straight-time and 12 hours of overtime. $(\$11.64 \times 53) + (\$17.46 \times 12) = \$826.44$. Additional hours paid at overtime rate.

Week 4 – 48 hours: Receives 48 hours of straight-time pay. $\$11.64 \times 48 = \558.72 . Additional hours paid at straight-time rate, until overtime standard of 53 is met; hours over 53 in week paid at overtime rate.

Week 5 – 65 hours: Receives 53 hours of straight-time and 12 hours of overtime. $(\$11.64 \times 53) + (\$17.46 \times 12) = \$826.44$. Additional hours paid at overtime rate.

Week 6 – 55 hours: Receives 53 hours of straight-time and 2 hours of overtime. $(\$11.64 \times 53) + (\$17.46 \times 2) = \$651.84$. Additional hours paid at overtime rate.